

ORIGINAL



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BEFORE THE ARIZONA CORPORATION  
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COMMISSIONERS

JEFF HATCH-MILLER, Chairman  
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2006 JUL 27 P 4: 41

AZ CORP COMMISSION  
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Arizona Corporation Commission  
**DOCKETED**

JUL 27 2006

DOCKETED BY

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IN THE MATTER OF THE  
APPLICATION OF PERKINS  
MOUNTAIN WATER COMPANY  
FOR A CERTIFICATE OF  
CONVENIENCE AND NECESSITY  
IN MOHAVE COUNTY

DOCKET NO. W-20380A-05-0490

DOCKET NO. SW-20379A-05-0489

IN THE MATTER OF THE  
APPLICATION OF PERKINS  
MOUNTAIN UTILITY COMPANY  
FOR A CERTIFICATE OF  
CONVENIENCE AND NECESSITY  
IN MOHAVE COUNTY

**EMERGENCY REQUEST FOR  
CONTINUANCE OF ORAL  
ARGUMENT**

On June 19, 2006, Commissioner Mayes filed a letter in these consolidated dockets asking Perkins Mountain Water Company and Perkins Mountain Utilities Company ("Perkins") to provide the reasons why it believes that Rhodes Homes Arizona, LLC, ("Rhodes Homes") is not currently acting as a public service corporation by constructing the water infrastructure that will eventually serve Golden Valley South, and why it believes that Rhodes Homes is not currently in violation of A.R.S. § 40-281.

On June 23, 2006, Staff filed a Motion to Compel the production of the federal and state tax returns for the years 2003-2005 for Perkins and five affiliates of Perkins, as well as the personal tax returns of Mr. Jim Rhodes.

On July 6, 2006, Perkins filed its Response to Staff's Motion to Compel and Request for a Protective Order to prevent disclosure of the confidential tax returns.

Snell & Wilmer

LLP  
LAW OFFICES  
One Arizona Center, 400 E. Van Buren  
Phoenix, Arizona 85004-2202  
(602) 382-6000

1 On July 10, 2006, counsel for the Applicants filed a three-page response to  
2 Commissioner Mayes' June 19, 2006, letter addressing each of the issues raised in her  
3 letter.

4 On July 12, 2006, the Administrative Law Judge ("ALJ") in this matter was  
5 advised on a teleconference with the parties that Perkins and Staff were working toward a  
6 resolution of the discovery dispute that would obviate the need to provide the tax returns,  
7 and moot the Motion to Compel. The parties requested that the ALJ take no further action  
8 on the Motion to Compel unless and until the parties notified her of the need to take the  
9 motion up again. The substance of the July 12, 2006, telephonic conference was reduced  
10 to writing in a Notice of Filing and filed with Docket Control on July 14, 2006.

11 On July 20, 2006, Commissioner Mayes docketed a letter to the ALJ requesting  
12 oral argument on the data request dispute include oral argument on the issues raised in her  
13 June 19, 2006, letter, and particularly, whether Perkins is in violation of A.R.S. § 40-281  
14 by proceeding with the construction and installation of utility infrastructure prior to  
15 receiving a CC&N from the Commission. It is not clear whether Commissioner Mayes is  
16 also requesting oral argument on the data request dispute, notwithstanding the fact that  
17 Perkins and Staff have asked that oral argument on the dispute be tabled while the parties  
18 seek to work out a resolution of the dispute.

19 On Wednesday, July 26, 2006, Staff counsel forwarded to counsel for Perkins an  
20 unsigned and undated copy of a Procedural Order that he received from the ALJ setting a  
21 procedural conference for Monday, July 31, 2006, at 10:00 AM for the purpose of oral  
22 argument on the issues raised by Commissioner Mayes in her letters dated June 19, 2006  
23 and July 20, 2006. The Procedural Order also stated that public comment would be taken  
24 as previously scheduled on July 31, 2006, and that the parties should address any other  
25 necessary procedural issues at that time. Counsel for Perkins received a signed copy of  
26 the Procedural Order in the mail on Thursday, July 27, 2006.

27 Perkins respectfully requests a short continuance of the oral argument scheduled  
28 for July 31. While Perkins has previously responded by letter to the issues raised by

1 Commissioner Mayes in her June 19 and July 20 letters, the issues have not been briefed  
2 by Perkins or Staff. The timing of the oral argument gives Perkins only two business days  
3 to prepare for the oral argument, and at least one representative of Perkins must travel  
4 from out of state to attend the oral argument. In addition, Perkins is at a distinct  
5 disadvantage because Staff has not previously stated its position on these issues, and  
6 Perkins has not had an opportunity to conduct discovery on these issues. Pursuant to the  
7 Commission's rules, oral argument is appropriate "[f]ollowing the filing of briefs or upon  
8 contested motions." A.A.C. R14-3-109(S). No briefs have been filed on the issues raised  
9 by Commissioner Mayes, and there are no contested motions between the parties raising  
10 those issues.

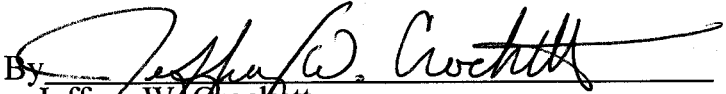
11 To the extent that the oral argument is to address Staff's Motion to Compel and  
12 Perkins' request for a protective order, Perkins requests that such oral argument be  
13 postponed. As stated above, Perkins and Staff are working on a resolution of the  
14 discovery dispute which led to the Motion to Compel, and Perkins believes that the parties  
15 are close to fully resolving that issue. Accordingly, as both Staff and Perkins have  
16 requested that the Motion to Compel be tabled for the time being, Perkins submits that it  
17 would not be appropriate to proceed with oral argument on the discovery dispute.

18 Perkins takes seriously the issues raised by Commissioner Mayes and is eager to  
19 fully address each of those issues. However, Perkins believes that the best way to have a  
20 meaningful oral argument on the issues is for the parties to brief the issues so that the ALJ  
21 will have a properly developed record upon which to base her decision. Perkins  
22 respectfully suggests that the procedural conference set for Monday, July 31, 2006, be  
23 used to identify the specific issues to be addressed in legal briefs and the schedule for  
24 filing those briefs. The demand for utility service at Golden Valley South is pressing, and  
25 Perkins has no desire to delay a decision on its applications. Perkins believes that the  
26 briefing and argument of the issues raised by Commissioner Mayes can be accomplished  
27 on an expedited basis. Perkins would also request that the ALJ address a new date for  
28

filing of a supplemental Staff Report as well as a new hearing date. Perkins agrees that the public comment session should proceed as scheduled on Monday, July 31, 2006.

DATED this 27th day of July, 2006.

SNELL & WILMER L.L.P.

By 

Jeffrey W. Crockett  
Kimberly A. Grouse  
One Arizona Center  
400 East Van Buren  
Phoenix AZ 85004-2202  
Attorneys for Perkins Mountain Water Company

ORIGINAL and 15 copies filed this 27th day of July, 2006, with:

Docket Control  
Arizona Corporation Commission  
1200 West Washington  
Phoenix, Arizona 85007

COPY hand-delivered this 27th day of July, 2006, to:

Amy Bjelland, Administrative Law Judge  
Hearing Division  
Arizona Corporation Commission  
1200 West Washington  
Phoenix, Arizona 85007

David Ronald, Staff Attorney  
Legal Division  
Arizona Corporation Commission  
1200 West Washington  
Phoenix, Arizona 85007

Blessing Chukwu  
Utilities Division Staff  
Arizona Corporation Commission  
1200 West Washington  
Phoenix, Arizona 85007

COPY mailed this 27th day of July, 2006, to:

Booker T. Evans, Jr.  
Kimberly A. Warshawski  
Greenberg Traurig, L.L.P.  
2375 East Camelback Road, Suite 700  
Phoenix, AZ 85016

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Scott Fisher  
Sports Entertainment  
808 Buchanan Blvd., Ste. 115-303  
Boulder City, NV 89005

Erin Ball